HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.3843 of 1999

Dated 16th day of April, 2007

Between:

The General Manager,
District Cooperative Central Bank Ltd.,
Nampally, Hyderabad and another ..
Petitioners

And

The Cooperative Sub-Registrar/Arbitrator
O/o District Cooperative Officer,
Ranga Reddy District, Hyderabad
and two others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the order dated 11.12.1998 passed by the 3rd respondent in I.A.No.234 of 1997 in C.T.A.(sr) No.806 of 1997, as arbitrary and illegal.

The petitioner, who is the General Manager of the District Cooperative Central Bank Limited, asserts that the Government sanctioned an amount of Rs.7,52,635/- towards Agriculture Debt Scheme, 1990 to the Bank, which released an amount of Rs.5,67,267.24 in favour of the members of the 2nd respondent-Society who are entitled to claim the benefit under the scheme and kept the balance amount of Rs.1,85,367.76 under suspense account for releasing it to the eligible members. The 2nd respondent raised a dispute before the 1st respondent praying to pass an award for recovery of Rs.1,85,367.76 together with interest from the Bank, and the 1st respondent passed an Award in ARC No.1/96, dated 5.11.1996 holding that the petitioner shall jointly and severally pay the claim amount with interest at 12% from 1.7.1991 to the 2nd respondent . Aggrieved by this order, the petitioner-Bank preferred an appeal i.e. C.T.A.(Sr) No.806 of 1997 to the 3rd respondent along with an application i.e.I.A.No.234 of 1997 seeking to condone the delay under Section 5 of the Limitation Act. Now, the petitioner's grievance is that the 3rd respondent erroneously dismissed the application.

Heard the learned counsel for both the parties.

This Court, on 26.2.1999, while ordering notice before

admission, directed the 2nd respondent not to disburse the amount of Rs.2,78,058/- representing the interest part to its members pending further orders.

In spite of the fact that notices are served on the respondents they have not chosen to file counter affidavit. Hence, this Court has no option but to accept the contention of the petitioner.

In the result, the writ petition is allowed and the order dated 11.12.1998 passed in I.A.No.234 of 1997 is set aside and the appellate authority i.e. the 3rd respondent-Chairman is directed to accept C.M.A.(sr).No.806 of 1997 and pass appropriate orders in accordance with law after affording an opportunity to the petitioners therein. No costs.

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16.04.2007

bcj